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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAMES FLOWERS,

Plaintiff - Appellant,

v.

SAUSE BROS., INC.,

Defendant - Appellee.

No. 04-16026

D.C. No. CV-02-00149-LEK

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Hawaii
Leslie E. Kobayashi, Magistrate Judge, Presiding

Argued and Submitted February 14, 2006
Pasadena, California

Before: CANBY, KLEINFELD, and BERZON, Circuit Judges.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

A trial court's findings of facts are reviewed under a clearly erroneous standard.¹ This standard is highly deferential, and we affirm the trial court if its account of the evidence is plausible in light of the record.²

There is ample evidence in the record to support the magistrate judge's finding that it was a customary and safe procedure to use two seaman to manually retrieve the slack from a spring line during a jackknife procedure. Therefore, the magistrate judge's conclusion that Sause Brothers did not breach its duty to provide Flowers with a safe work environment was adequately supported,³ as was her conclusion that the vessel was seaworthy.

AFFIRMED.

¹ Sec. Exch. Comm'n v. Rubera, 350 F.3d 1084, 1091 (9th Cir. 2003).

² Id. at 1094.

³ See Ribitzki v. Canmar Reading & Bates, Ltd., 111 F.3d 658, 662 (9th Cir. 1997).